

August 11, 2014

By email

Mr. Robert deV. Frierson  
Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue NW  
Washington, DC 20551

Re: Comments on Notice of Proposed Rulemaking dated July 1, 2014 regarding  
Amendments to the Capital Plan and Stress Test Rules (“NPR”),  
Docket No. 1492; RIN 7100-AE 20

Ladies and Gentlemen:

MUFG Americas Holdings Corporation (“MUAH”)<sup>1</sup> is pleased to have the opportunity to submit the following comments on the above-referenced NPR. MUAH is highly supportive of the Comprehensive Capital Analysis and Review (“CCAR”) requirements under the Federal Reserve’s capital plan rule and the stress testing requirements of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“DFAST”). MUAH’s comments address implementation issues, with the goal of assuring the highest quality of compliance with the CCAR/DFAST regime.

**Profile of MUAH**

MUAH is a bank holding company and a reporting company under the Securities Exchange Act of 1934. Its principal subsidiary is MUFG Union Bank, N.A., a national bank.<sup>2</sup> MUAH is the top-tier U.S. subsidiary of The Bank of Tokyo-Mitsubishi UFJ, Ltd. (“BTMU”), a Japanese bank. In turn, BTMU is a subsidiary of the Mitsubishi UFJ Financial Group, Inc. (“MUFG”). MUFG is one of the world’s largest and most diversified financial groups with total assets of ¥258 trillion, or approximately US\$ 2.55 trillion as of December 31, 2013. MUFG is a financial holding company and a foreign banking organization (“FBO”).

MUFG’s principal operations in the United States are conducted through (i) MUFG Union Bank, N.A. (ii) Mitsubishi UFJ Securities (USA) (“MUSUSA”), a U.S. licensed broker-dealer and member of FINRA, the National Futures Association and SIPC<sup>3</sup>; (iii) various other subsidiaries of MUFG; and (iv) U.S. branches, agencies and representative offices of its subsidiary BTMU.

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<sup>1</sup> Previously, UnionBanCal Corporation.

<sup>2</sup> Previously, Union Bank, N.A.

<sup>3</sup> MUSUSA is a subsidiary of Mitsubishi UFJ Securities Holdings Co., Ltd. (“MUSHD”), a Japanese securities firm, which in turn is a subsidiary of MUFG.

## Background

Under the Enhanced Prudential Standards (“EPS”) enacted by the Federal Reserve earlier this year, as a general rule, FBOs with \$50 billion or more of non-branch U.S. assets as of June 30, 2015 are required to bring at least 90% of their U.S. non-branch operations under a single intermediate holding company (“IHC”) by July 1, 2016.<sup>4</sup> Under these requirements MUFG will be required to hold MUFG Union Bank, N.A., and other U.S. subsidiaries (including MUSUSA, its most material U.S. subsidiary not held under MUAH) under a single, U.S.-based IHC by July 1, 2016. MUFG’s IHC will be subject to the CCAR/DFAST regime. An implementation plan for the establishment of MUFG’s IHC will be required to be submitted by January 1, 2015.<sup>5</sup>

The CCAR/DFAST regime first applied to MUAH as a bank holding company (“BHC”) for the January 2014 submission cycle. For each of the preceding two years, MUAH complied with the Capital Plan Review (“CapPR”) requirements. MUAH continues to be subject to full CCAR/DFAST requirements as a BHC.

## Comments

1. *An FBO that designates as its IHC an existing BHC that is subject to CCAR requirements on or before September 30, 2015 (a “Designated IHC”) should be subject to the same transition period, with respect to newly acquired assets, as afforded an FBO that establishes a new IHC (a “De Novo IHC”). The Federal Reserve has allowed banking organizations adequate time in other contexts to adopt reporting and compliance regimes involving new material asset transfers. That precedent should be followed to provide Designated IHCs that acquire material business lines and assets an appropriate transition period to establish internal systems and processes sufficient to meet the robust CCAR/DFAST standards<sup>6</sup> required by the newly adopted EPS.*

As proposed, a *De Novo* IHC will be subject to the full CCAR/DFAST regime for the cycle commencing January 1, 2018. However, according to footnote 17 of the NPR, a Designated IHC appears to be required to adopt the full CCAR/DFAST regime for the cycle commencing January 1, 2017. An even less favorable transition timetable is suggested by “Frequently Asked Questions: Implementation of Regulation YY Enhanced Prudential Standards for Foreign Banking Organizations (updated: June 26, 2014). FAQ # 22 appears to require including the assets that will in the future be transferred to a Designated IHC under the full

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<sup>4</sup> Regulation YY, 12 CFR 252.152(c)(2). By July 1, 2017, they are required to hold their ownership in all such operations (with specified exceptions) through their IHCs.

<sup>5</sup> Regulation YY, 12 CFR 252.153(d).

<sup>6</sup> These robust standards are described in the Federal Reserve’s adoptive release for its Capital Plan Rule, 76 Fed. Reg. 74631, 74634 (Dec. 1, 2011) and its guidance entitled “Capital Planning at Large Holding Companies: Supervisory Expectations and Range of Current Practice,” and successor supervisory guidance.

CCAR/DFAST requirements in both of the 2015 and 2016 capital planning cycles.<sup>7</sup>

Accordingly, a Designated IHC could have as much as one to three fewer years to comply with the full CCAR/DFAST regime than a *De Novo* IHC.

This distinction appears to be based on the assumption that a *De Novo* IHC would need a substantial transition period to reach full CCAR/DFAST implementation, but that a Designated IHC would require less time (and under FAQ #22, virtually no time) to reach full CCAR/DFAST implementation (presumably because it already has experience with the CCAR/DFAST regime as a BHC). In practice, however, the time required for a Designated IHC to reach full, integrated CCAR/DFAST implementation is a function of the size, type and complexity of the new businesses and assets that must be integrated into the CCAR/DFAST regime. An appropriate transition period is required to integrate material lines of business and assets, currently supported by disparate systems and processes, under a single, reliable CCAR/DFAST compliant process. Substantial time is required to develop appropriate data capture, projection models, reporting systems, operational methodologies, systems integration, and operational controls for such an integration. Accelerating the imposition of full CCAR/DFAST requirements under such circumstances may expose a Designated IHC to heightened risk for receiving an unnecessary supervisory objection to its capital plan submission(s) on qualitative grounds that could have been avoided with an appropriate transition period.

The transition timetable to full CCAR/DFAST compliance for a Designated IHC should be based, not on the choice of legal structure, but instead on the magnitude of the effort required to integrate new businesses and assets into the Designated IHC in a manner sufficient to meet applicable requirements. Use of MUAH as MUFG's Designated IHC is the simplest and most cost effective structure for MUAH to comply with IHC requirements. It avoids the time, expense (legal and otherwise) and approvals (domestic and foreign) to create an additional U.S. umbrella holding company and, on an ongoing basis, it avoids the burden of maintaining duplication of governance and regulatory reporting processes. CCAR/DFAST regime transition periods should not create an incentive for complex corporate structures: the Federal Reserve has recently urged larger banking organizations to "establish rational and less complex legal structure[s] that would take into account the best alignment of legal entities and business lines to improve [a] firm's resolvability."<sup>8</sup>

The Federal Reserve has consistently afforded multi-year transition periods in similar circumstances, presumably in recognition of the difficulties of adapting to new, complex regimes. For example:

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<sup>7</sup> This FAQ goes on to state that such a BHC "would not be able to take advantage of any transition periods under Regulation YY." This suggests that full CCAR/DFAST compliance for a Designated IHC could be required as early as 2015, in other words, before all material operations are fully integrated into the Designated IHC. Where complex and material operations are required to be integrated under the Designated IHC, it is almost a foregone conclusion that this timetable could not be met. FAQ # 22 and the inconsistency with footnote 17 of the NPR should be clarified as soon as possible and, in any event, before the Final Rule is adopted.

<sup>8</sup> "Agencies Provide Feedback on Second Round Resolution Plans of 'First-Wave' Filers," Federal Reserve Press Release, August 5, 2014.

- An approximate two-year transition period post the required IHC formation date of July 1, 2016 is proposed for *De Novo* IHCs to reach full CCAR/DFAST requirements.
- MUAH (and similarly situated organizations) were afforded two years under the CapPR regime before full CCAR/DFAST compliance was required.
- When an advanced approaches bank or BHC voluntarily acquires another company that does not calculate risk-based capital using advanced systems, the acquiring institution has twenty-four months from the date of acquisition to incorporate the acquired exposures into its advanced systems, and the Federal Reserve may extend this transition period for an additional twelve months.<sup>9</sup>

Compliance with capital planning and associated CCAR/DFAST requirements resulting from the integration of new businesses and assets into a Designated IHC is as complex or more so compared to the circumstances giving rise to the transition periods noted above.

Treating a Designated IHC on par with a *De Novo* IHC for new assets should not compromise the integrity of the process for assessing capital adequacy and the associated CCAR/DFAST regime during the transition period. A BHC already subject to the full CCAR/DFAST requirements can continue to report under the full CCAR/DFAST regime through the 2017 capital planning cycle on a pre-integration basis (in other words, without immediately integrating newly acquired MUFG businesses and assets for CCAR/DFAST compliance purposes). This would prevent any degradation of legacy capital adequacy processes and reporting while a Designated IHC transitions newly acquired businesses and assets into full CCAR/DFAST compliance in time for the 2018 capital planning cycle.

For the reasons expressed above, the CCAR/DFAST compliance schedule for newly acquired assets of a Designated IHC should be the same as that for a *De Novo* IHC, especially where material assets and operations not subject to the CCAR/DFAST regime are being integrated into the Designated IHC. The transition period for full mid-cycle DFAST reporting and associated public disclosure should also be based on that applicable to *De Novo* IHCs, with October 5, 2018 being the first filing date for mid-cycle DFAST reporting.

## 2. *Clarification of assumptions regarding capital actions under the stress testing rules.*

The NPR proposes that for the second through the ninth quarters of the planning horizon, companies should assume no new issuance of capital instruments eligible for inclusion in the numerator of a capital ratio, except issuances related to expensed employee compensation. Question No. 6 in the NPR requests comment on what, if any, additional exceptions might be justified.

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<sup>9</sup> Interagency Statement on U.S. Implementation of Basel II Advanced Approaches Framework, Federal Reserve Reporting Service, ¶3-1506.332.

We propose that the FRB permit the inclusion of new capital issuances in stress testing under the following circumstances:

- First, the inclusion of new capital issuances should be restricted to discretely defined strategic initiatives that would be unable to be executed without such capital to support the activity.
- Second, capital issuances included within stressed projections should include appropriate reductions, if any, relevant to the stress scenario assumed.

When other effects of such initiatives are included in the planning horizon, for example, associated costs and increases in risk-weighted assets, consistency requires that the associated capital issuances required for implementation also be included. Alternatively, if it is preferred that capital issuances under these noted circumstances should be excluded from capital projections, removal of the related risk-weighted assets and other impacts of the initiative should be allowed. In sum, credibility of stress testing projections under such circumstances would be enhanced through aligning projected uses of capital and capital issuances where capital support is explicitly required as a condition of the initiative's enactment.

3. *Shifting of the CCAR cycle by one quarter, commencing with the January 1, 2016 cycle.*

MUAH fully supports shifting the annual capital planning cycle from the current October 1<sup>st</sup> to January 5<sup>th</sup> period to January 1<sup>st</sup> to April 5<sup>th</sup> period and also supports the corresponding one quarter adjustment of the mid-cycle DFAST cycles. In addition, we propose that these changes should take effect for the 2015 capital planning cycle and not be deferred until 2016.

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We very much appreciate the opportunity to comment on the NPR and look forward to your consideration of our comments. If it would be helpful to discuss these issues with us, please feel free to contact Kerry Massey, Managing Director and Head of Capital Management at (213) 236-6098.

Sincerely,

MUFG Americas Holdings Corporation

By:

  
John F. Woods  
Chief Financial Officer for the Americas

cc:

Jose Alonso; Vice President, Federal Reserve Bank of San Francisco

Masashi Oka; Executive Chairman for MUFG Americas Holdings Corporation

Katsumi Hatao; CEO for the Americas, and President and CEO of MUFG Americas Holdings Corporation

Mark Midkiff; Chief Risk Officer for the Americas

Michael Coyne; General Counsel

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